REMARKS

Pursuant to 37 CFR §1.114, Applicant hereby submits the following remarks in support of the patentability of claims 1-9, 11-20, 29, 30, and 32-41 of the present application.

During prosecution of the above application, the Examiner issued a final Office Action dated December 23, 2008 (hereinafter, the "Final Office Action"). The Final Office Action noted that claims 1-33 were pending in the present application. In reality, claims 1-30, 32, and 33 are pending in the present application. By this amendment, claims 1, 9, 11, 13, 29, and 30 are amended, claim 10 is cancelled, and new claims 34-41 are added, thereby leaving claims 2-8, 12, 14-20, 32, and 33 unchanged and claims 21-28 withdrawn. The new claims and the amendments to the previously existing claims are fully supported by the specification and do not add any new matter to the application. Therefore, claims 1-9, 11-29, 30, and 32-41 are currently pending in the present application.

In the Final Office Action, the Examiner raised several new grounds of rejection and rejected all pending, non-withdrawn claims 1-9, 11-20, 29, 30, and 32-41 under either or both 35 USC §101 or 35 USC §103(a). Applicant responds to the Examiner's rejections below and respectfully submits that claims 1-9, 11-20, 29, 30, and 32-41 are allowable.

35 U.S.C. §101 Rejections

Claims 1-20, 30, 32, and 33 stand rejected under 35 U.S.C. §101 as relating to non-statutory subject matter.

While the Applicant believes claims 1-20, 30, 32, and 33 relate to statutory subject matter, Applicant is hereby amending the claims in an effort to appease the Examiner and further prosecution of the present application.

As indicated by the Examiner in the Final Office Action, to qualify as statutory subject matter, a claimed process should either: (1) be tied to another statutory class (such as a particular

apparatus) or (2) transform underlying subject matter (such as an article or materials). Applicant hereby amends independent method claims 1, 13, and 30 to recite particular apparatuses that perform steps of said claims. Accordingly, the currently pending method claims are tied to another statutory class and are clearly directed to statutory subject matter. Withdrawal of these rejections is respectfully requested.

Claim Rejections – 35 USC §103(a)

Claims 1-6, 9-16, 19, 20, 29, 30, 32, and 33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Published Patent Application No. 2004/0078252 ("Daughtrey") in view of U.S. Published Patent Application No. 2001/0034625 ("Kwoh"). Additionally, claims 7, 8, 17, and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Daughtrey in view of Kwoh and further in view of U.S. Patent No. 6,304,850 ("Keller"). Applicant respectfully traverses these rejections.

As indicated in the Amendment by the Applicant filed on October 14, 2008 in connection with the present application, the Examiner acknowledged via a telephone message on October 8, 2008 that Daughtrey does not teach or suggest, *inter alia*, simultaneously providing a plurality of flexible date search options to a user, one of the plurality of flexible date search options comprising performing a search based on a user entered departure date, a user entered return date, and a user entered flexible time interval corresponding to at least one of the departure date and the return date.

In the Final Office Action, the Examiner continues to rely on Daughtrey to reject the pending claims and has added Kwoh in an attempt to cure the deficiencies of Daughtrey. More particularly, the Examiner states that "Daugh[trey] does not explicitly teach a user entered return date" and "Kwoh teaches a user entering a return date for the purposes of searching for a flight" (see last paragraph on page 5 and continuing at top of page 6).

These grounds of rejection are moot in view of newly amended independent claims 1, 13, 29, and 30.

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of presenting a *prima facie* case of obviousness based upon the prior art. In re Fritch, 972 F.2d 1260, 1265, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992); In re Fine, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 985, 180 U.S.P.Q. 580, 583 (CCPA 1974); MPEP §§ 706.02(j), 2143.03.

Claims 1, 13, and 29 now recite a user entered departure date, a user entered return date, and a user entered trip length, wherein the user entered trip length is *less than* a period of time between the user entered departure date and the user entered return date. As acknowledged by the Examiner in the Final Office Action, Daughtrey does not teach or suggest a user entering all three of: a departure date, a return date, and a trip length (see section 6, page 5, last paragraph, and section 16, page 8, 2nd paragraph). Also, in section 3 of the Office Action dated June 25, 2008, the Examiner refers to Fig. 2 of Daughtrey and indicates that the return date of "October 17" is derived from the departure date of "October 10" plus the trip interval of "1 week". In other words, the departure date plus the trip length *equals* the return date. This simple mathematical equation used by the Examiner to arrive at a return date clearly establishes that the trip length disclosed by Daughtrey is *equal* to the period of time between the departure date and the return date, not less than the time period between the departure date and the return date as recited in independent claims 1, 13, and 29. For these reasons, Daughtrey does not teach or suggest all the subject matter of independent claims 1, 13, and 29.

Kwoh does not cure the deficiencies of Daughtrey. Kwoh also does not teach or suggest, *inter alia*, a user entered departure date, a user entered return date, and a user entered trip length, wherein the user entered trip length is less than a period of time between the user entered departure date and the user entered return date.

For at least these reasons, Daughtrey and Kwoh do not teach or suggest the subject matter of independent claims 1, 13, and 29 and, therefore, the Examiner fails to establish a *prima facie* case of obviousness. Accordingly, independent claims 1, 13, and 29 are allowable. Claims 2-9, 11, 12, 14-20, and 34-40 respectively depend from one of independent claims 1, 13, and 29 and are allowable for at least the same reasons.

Although Applicant is currently amending independent claims 1, 13, and 29 in an attempt to appease the Examiner with respect to overcoming Daughtrey and Kwoh, Applicant continues to assert that independent claims 1, 13, and 29 and their dependent claims defined over Daughtrey and Kwoh prior to the present claim amendments as set forth in the Applicant's prior Office Action responses.

Regarding independent claim 30, the Examiner continues to reject claim 30 in view of Daughtrey and most recently adds Kwoh in combination to reject claim 30. Daughtrey does not teach or suggest, *inter alia*, receiving travel date information from the user, the travel date information comprising a trip date range, the trip date range comprising a user specified earliest departure date and *a user specified latest return date*, and a trip length. Rather, Daughtrey only allows a user to specify an earliest departure date and a length of stay. Daughtrey does not allow a user to specify a latest return date (see Fig. 2 of Daughtrey). In sections 6 and 16 of the Final Office Action, the Examiner states "Daughtrey does not explicitly teach a user entered return date." This concession alone is sufficient to establish that Daughtrey does not teach or suggest

all the subject matter of independent claim 30 and, therefore, establishes that the Examiner has failed to establish a *prima facie* case of obviousness with Daughtrey alone.

Additionally, Daughtrey does not teach or suggest, *inter alia*, wherein the trip length is less than the trip date range, which is comprised of a user specified earliest departure date and a user specified latest return date. Reference is made to the remarks presented above in connection with independent claims 1, 13, and 29 to establish Daughtrey's failure to teach or suggest this limitation. Kwoh also does not teach or suggest these limitations of independent claim 30.

For at least these reasons, Daughtrey and Kwoh do not teach or suggest all the subject matter of independent claim 30 and, therefore, the Examiner fails to establish a *prima facie* case of obviousness. Accordingly, independent claim 30 is allowable. Claims 32, 33, and 41 depend from independent claim 30 and are allowable for at least the same reasons.

Although Applicant is currently amending independent claim 30 in an attempt to appease the Examiner with respect to overcoming Daughtrey and Kwoh, Applicant continues to assert that independent claim 30 and its dependent claims defined over Daughtrey and Kwoh prior to the present claim amendments as set forth in the Applicant's prior Office Action responses.

Conclusion

In view of the aforesaid, Applicant respectfully submits that claims 1-9, 11-20, 29, 30, and 32-41 are in condition for allowance and a Notice of Allowance for these claims is respectfully requested.

Respectfully submitted,

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